

**APPLICANTS:**  
**Greg S. Stephens, Jr. and Candice A. Stephens**

**REQUEST:** A variance to permit an addition  
within the required 40 foot front yard setback

**HEARING DATE:** November 16, 2005

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**  
**Case No. 5516**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:** Greg S. Stephens, Jr. and Candice A. Stephens

**LOCATION:** 1908 Lincoln Road – Hickory Hill – Section 1, Forest Hill  
Tax Map: 34 / Grid: 4A / Parcel: 272 / Lot: 4  
Third Election District

**ZONING:** R1 / Urban Residential District

**REQUEST:** A variance pursuant to Section 267-36(B) Table IV of the Harford County Code to permit an addition to encroach into the 40 foot front yard setback (26 foot setback proposed), in an R1 District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

Greg S. Stephens, Jr., Applicant, described his property as an approximately 0.6 acre lot located in the Hickory Hill subdivision, at the intersection of Lincoln and Tyler Roads. The Applicants' property is improved by a single-family rancher with an attached carport. The carport, according to the Applicant, was built in approximately 1960. The Applicants and their five year old child live on the property and use it as their principal residence.

Photographs in the file show the subject property as being a one-story rancher, typical of others in its neighborhood. The Staff Report describes the lot as somewhat sloping from left to right. Lincoln Road dead-ends just past the Applicants' residence. Tyler Road also dead-ends within 200 to 300 feet of the Applicants' residence. According to Mr. Stephens those roads were originally constructed so as to be extended. However, Mr. Stephens stated that the surrounding properties have been separately developed, and those roads, as a result, will never be extended. A review of the aerial photographs in the file supports Mr. Stephens' assertion.

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The Applicants are now in the process of constructing an addition, with the proper permits, to the north side of their property. As part of their home renovation they wish to replace the carport. The application indicates that the carport is weather beaten, old, and in need of replacement. However, the Applicants' property, situated as it is at the corner of Tyler and Lincoln Road, is a corner lot and is accordingly subject to two front yard setbacks. The carport itself encroaches into the required 40 foot front yard setback along Lincoln Road by approximately 14 feet. If the Applicants were to replace the carport with a more standard, enclosed garage, a variance of 14 feet would accordingly be required.

Mr. Stephens further testified that there is no other available location on his property for a garage due to the existing slope and required septic reserve area to the rear of his house. Mr. Stephens believes the variance, if approved, will have no impact on his neighbors or neighborhood. He has spoken to his neighbors and none has expressed any objection to his request. The appearance of the proposed garage will be similar to that of the existing house.

The Harford County Department of Planning and Zoning Staff Report indicates that the property is unique.

“The lot is a corner lot and is subject to two front yard setbacks. The lot slopes significantly from left to right as you face the front of the dwelling. According to the Department's records the carport has existed in the current location for over 20 years. The proposed location of the garage is the most practical location. The proposed garage and addition are consistent with the other structures in the neighborhood.”

There was no testimony or evidence presented in opposition.

### **APPLICABLE LAW:**

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

*“Variances.*

*A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*

*(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*

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(2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Applicants' property is a 0.6 acre lot, improved by a one-story ranch type residence which in appearance is similar to others in its neighborhood and throughout Harford County. Somewhat unusually, by more current standards, the property has a carport on one end of the house. The Applicants wish to remove the carport, which is approximately 45 years old, and replace it with an enclosed garage. This type of improvement is similar to many others in the neighborhood and within Harford County.

However, the Applicants' property is constrained by two front yard setbacks. Apparently when first laid out Lincoln and Tyler Roads, at the intersection of which lies the subject property, were intended to be extended and to serve other lots. However, the surrounding uses have changed and both Lincoln and Tyler Roads now dead-end just past the Applicants' property. As a result the Applicants' property is now encumbered by two 40 foot front yard setbacks. If the property were not so encumbered, the Lincoln Road side would be considered a side yard and no variance would be required.

Clearly, the property suffers from an unusual characteristic in that it is a corner lot, subject to two front yard setbacks, which reduces the available building envelope on the property. This reduction is such that it distinguishes the property from others in its area, and makes it unique. This uniqueness causes a difficulty to the Applicant in that he is unable to construct a garage similar to others in the neighborhood and throughout Harford County, and one which would be allowed but for the existence of this front yard setback variance. The relief requested is appropriate, would have no adverse impact on adjoining properties, and is the minimum necessary to allow the Applicants' to construct their proposed garage, which is basically the replacement of a structure which has existed for some years.

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**CONCLUSION:**

For the above reasons it is recommended that the requested variance be approved, subject to the following:

1. The Applicants shall obtain all necessary permits and inspections concerning construction of the two-car garage and room addition.
2. The garage and addition shall use material that matches the exterior of the remainder of the dwelling.

Date: December 9, 2005

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on JANUARY 10, 2006.**